

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SCOTT KEITH ERNST,
Plaintiff,

v.

DAVID FRANCES RAMOS, et al.,
Defendants.

No. 2:21-cv-00813-DAD-AC (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
CERTAIN CLAIMS AND DEFENDANTS

(Doc. No. 30)

Plaintiff Scott Keith Ernst is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On October 24, 2023, the assigned magistrate judge screened plaintiff's second amended complaint and found that plaintiff had stated cognizable Eighth Amendment deliberate indifference claims against defendants Ashe, Miller, Beck, Akhila, Ginwalla, Ramos, Nelson Singh, Wong, and Miraflor, and cognizable First Amendment retaliation claims against defendants Ramos, Singh, and Miller, but that plaintiff failed to state any other cognizable claims against the remaining defendants. (Doc. No. 30.) Accordingly, on October 24, 2023, the assigned magistrate judge issued findings and recommendations recommending that this action proceed only on the claims found to be cognizable in the screening order and that all other claims

1 and defendants be dismissed from this action without leave to amend due to plaintiff's failure to
2 state a cognizable claim against them. (*Id.* at 8–13.) The pending findings and recommendations
3 were served on plaintiff and contained notice that any objections thereto were to be filed within
4 twenty-one (21) days after service. (*Id.* at 13.) To date, no objections have been filed, and the
5 time in which to do so has passed.

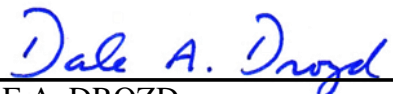
6 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
7 *de novo* review of the case. Having carefully reviewed the entire file, the court concludes that the
8 findings and recommendations are supported by the record and proper analysis.

9 Accordingly,

- 10 1. The findings and recommendations issued on October 24, 2023 (Doc. No. 30) are
11 adopted in full;
- 12 2. This action shall proceed on plaintiff's Eighth Amendment deliberate indifference
13 claims against defendants Ashe, Miller, Beck, Akhila, Ginwalla, Ramos, Nelson,
14 Singh, Wong, and Miraflor, and plaintiff's First Amendment retaliation claims
15 against defendants Ramos, Singh, and Miller;
- 16 3. All other claims brought by plaintiff in this action are dismissed;
- 17 4. All other defendants are dismissed as defendants in this action; and
- 18 5. This action is referred back to the assigned magistrate judge for further
19 proceedings consistent with this order.

20 IT IS SO ORDERED.

21 Dated: January 30, 2024

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23 DALE A. DROZD
24 UNITED STATES DISTRICT JUDGE
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